



U.S. Council for Energy Awareness

Marvin S. Fertel

Vice President, Technical Programs

QA  
17881

Suite 400  
1776 I Street, N.W.  
Washington, DC 20006-2495  
(202) 293-0770  
FAX (202) 785-4019  
(202) 785-4113

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August 16, 1993

FHWA Docket No. MC92-4  
Room 4232  
HOC-1@  
Office of the Chief Counsel  
Federal Highway Administration  
400 Seventh Street, SW  
Washington, DC 20590

FHWA-97-2130-48

Reference: **58FR** 33418 Federal Motor Carrier Safety Regulations: Transportation of Hazardous Materials.

Dear Sir:

These comments are submitted by **the** U.S. Council for Energy Awareness on behalf of its Facilities Operations Committee (FOC). The comments were prepared in response to the Federal Highway Administration's (FHWA) request for comments on the notice for proposed rulemaking on **the** adding of a new subpart B, which establishes a motor carrier safety permit program.

The FOC membership consists of owners and operators of fuel fabrication facilities, conversion facilities, uranium enrichment plants, material processing facilities, as well as transporters and other related service facilities. The FOC members are either the shipper or the transporter of highway route controlled quantity radioactive materials. Therefore, they would be affected by the proposed rulemaking and have an interest in its outcome.

While **the** members of the FOC endorse the action by the FHWA to conduct a rulemaking intended to improve the safety of hazardous materials transportation, we, in general, do not believe the proposals relevant to highway route controlled quantity radioactive materials are justified or necessary.

The safe handling and transportation of radioactive materials is the primary objective for companies responsible for these activities. In this regard, the nuclear industry has an excellent safety record with respect to transporting radioactive materials. The transportation of radioactive materials is currently regulated by the U.S. Nuclear Regulatory Commission, the U.S. Department of Transportation and by specific state regulatory agencies. We do not believe that any new or additional radiological monitoring inspection criteria, beyond those currently in effect, have been justified by FHWA as being required. In the event new or additional radiological monitoring criteria are to be considered, we recommend that the FHWA base these criteria on the final recommendations of the inprogress evaluation being prepared by the Commercial Vehicle Safety Alliance.

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With regard to the proposal to issue safety permits, the FOC members have been performing inspections of vehicles used for transporting radioactive materials on a voluntary basis for a number of years. It is not at all clear that having to obtain a safety permit would add to safety. Rather, it is likely that it would **only** result in additional cost and administrative burden. Therefore, we recommend that **the** FHWA consider implementing the safety permit concept for those hazardous materials transportation activities that are not currently regulated to the degree that radioactive materials are and that do not have the demonstrated long-term safety record of the nuclear industry. If at a latter time, the safety benefits of the **permit** system concept have been proven, and if a need for such a system for transporting radioactive materials becomes evident, then the FHWA should repropose its implementation.

We appreciate the opportunity to comment on the notice of proposed rulemaking. If you have any questions concerning our comments, please contact Felix **Killar** or me.

Sincerely,



Marvin S. Fertel

cc: Felix Killar

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